

AMENDED IN ASSEMBLY JANUARY 7, 2008

AMENDED IN ASSEMBLY APRIL 17, 2007

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 705

Introduced by Assembly Member Huffman
(Principal coauthor: Assembly Member Blakeslee)
(Coauthors: Assembly Members Laird, Krekorian, and Portantino)

February 22, 2007

~~An act to add Chapter 8 (commencing with Section 3880) to Division 3 of the Public Resources Code, relating to public resources. An act to amend Section 15626 of the Government Code, relating to the State Board of Equalization.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 705, as amended, Huffman. ~~Public resources: geologic carbon sequestration. State Board of Equalization: conflict of interest.~~

The Quentin L. Kopp Conflict of Interest Act of 1990 requires each member of the State Board of Equalization who knows or has reason to know that he or she received a contribution or contributions within the past 12 months in an aggregate amount of \$250 or more from a party to or participant in any adjudicatory proceeding of the board, to disclose that fact prior to rendering any decision in that proceeding. The member is prohibited from making, participating in making, or in any way attempting to use his or her official position to influence, the decision in any adjudicatory proceeding pending before the board if the member knows or has reason to know that he or she received a contribution or contributions in an aggregate amount of \$250 or more

from a party to the proceeding, or from a participant in the proceeding the member knows or has reason to know that the participant has a financial interest in the decision. Any person who knowingly or willfully violates any of these provisions is guilty of a misdemeanor, and if convicted is prohibited from being a candidate for elective office or acting as a lobbyist for a period of 4 years, and is subject to a fine.

This bill would extend the requirement of disclosure and the prohibition on making, participating in making, or attempting to use an official position to influence, the decision in an adjudicatory proceeding, to instances in which the board member knows, or has reason to know, that his or her immediate family member or a member of his or her personal staff received a contribution subject to these provisions. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law requires the State Energy Resources Conservation and Development Commission, on or before November 1, 2007, to submit a report to the Legislature containing recommendations for how the state can develop parameters to accelerate the adoption of cost-effective geologic sequestration strategies for the long-term management of industrial carbon dioxide.~~

~~This bill would require the Division of Oil, Gas, and Geothermal Resources in the Department of Conservation (division), in close collaboration with the California Environmental Protection Agency, and in consultation with the Geological Survey of the department, to adopt standards and regulations for geologic carbon sequestration projects to provide regulatory guidance for those performing these projects and to minimize the health and safety risks to the public. The division would be required to make reasonable efforts to enter into a memorandum of understanding with the United States Environmental Protection Agency on the development of the standards and regulations. The standards and regulations would be applicable to the injection of carbon dioxide and other injectants in allowable geological formations for the purposes of greenhouse gas emission reduction or limitation through long-term sequestration, but would not be applicable to the use~~

of Class II injection wells for conventional enhanced hydrocarbon recovery.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 15626 of the Government Code is*
2 *amended to read:*
3 15626. (a) This section shall be known, and may be cited, as
4 the Quentin L. Kopp Conflict of Interest Act of 1990.
5 (b) Prior to rendering any decision in any adjudicatory
6 proceeding pending before the State Board of Equalization, each
7 *board* member who knows or has reason to know that he or she,
8 *or his or her immediate family member or a member of his or her*
9 *personal staff*, received a contribution or contributions within the
10 preceding 12 months in an aggregate amount of two hundred fifty
11 dollars (\$250) or more from a party or his or her agent, or from
12 any participant or his or her agent, shall disclose that fact on the
13 record of the proceeding.
14 (c) No *board* member shall make, participate in making, or in
15 any way attempt to use his or her official position to influence, the
16 decision in any adjudicatory proceeding pending before the board
17 if the *board* member knows or has reason to know that he or she,
18 *or his or her immediate family member or a member of his or her*
19 *personal staff*, received a contribution or contributions in an
20 aggregate amount of two hundred fifty dollars (\$250) or more
21 within the preceding 12 months from a party or his or her agent,
22 or from any participant or his or her agent, and if the *board* member
23 knows or has reason to know that the participant has a financial
24 interest in the decision, as that term is used in Article 1
25 (commencing with Section 87100) of Chapter 7 of Title 9.
26 (d) Notwithstanding subdivision (c), if a *board* member, *or his*
27 *or her immediate family member or a member of his or her*
28 *personal staff member*, receives a contribution ~~which~~ *that* would
29 otherwise require disqualification under subdivision (c), and ~~he or~~
30 ~~she~~ *that individual* returns the contribution within 30 days from
31 the time ~~he or she~~ *the board member* knows, or has reason to know,
32 about the contribution and the adjudicatory proceeding pending

1 before the board, ~~his or her~~ *the board member's* participation in
2 the proceeding shall be deemed lawful.

3 (e) A party to, or a participant in, an adjudicatory proceeding
4 pending before the board shall disclose on the record of the
5 proceeding any contribution or contributions in an aggregate
6 amount of two hundred fifty dollars (\$250) or more made within
7 the preceding 12 months by the party or participant, or his or her
8 agent, to any member of the board, *or his or her immediate family*
9 *member or a member of his or her personal staff, to the extent the*
10 *relationship to the board member can reasonably be known.*

11 (f) When a close corporation is a party to, or a participant in,
12 an adjudicatory proceeding pending before the board, the majority
13 shareholder is subject to the disclosure requirement specified in
14 this section.

15 (g) For purposes of this section, if a deputy to the Controller
16 sits at a meeting of the board and votes on behalf of the Controller,
17 the deputy shall disclose contributions made to the Controller, *or*
18 *the Controller's immediate family member or a member of his or*
19 *her personal staff, as defined in paragraph (7) of subdivision (h),*
20 and shall disqualify himself or herself from voting pursuant to the
21 requirements of this section.

22 (h) For purposes of this section:

23 (1) "Contribution" has the same meaning prescribed in Section
24 82015 and the regulations adopted thereto.

25 (2) "Party" means any person who is the subject of an
26 adjudicatory proceeding pending before the board.

27 (3) "Participant" means any person who is not a party but who
28 actively supports or opposes a particular decision in an adjudicatory
29 proceeding pending before the board and who has a financial
30 interest in the decision, as described in Article 1 (commencing
31 with Section 87100) of Chapter 7 of Title 9. A person actively
32 supports or opposes a particular decision if he or she lobbies in
33 person the members or employees of the board, testifies in person
34 before the board, or otherwise acts to influence the members of
35 the board.

36 (4) "Agent" means any person who represents a party to or
37 participant in an adjudicatory proceeding pending before the board.
38 If a person acting as an agent is also acting as an employee or
39 member of a law, accounting, consulting, or other firm, or a similar

1 entity or corporation, both the entity or corporation and the person
2 are agents.

3 (5) “Adjudicatory proceeding pending before the board” means
4 a matter for adjudication that has been scheduled and appears as
5 an item on a meeting notice of the board as required by Section
6 11125 as a contested matter for administrative hearing before the
7 board members. A consent calendar matter is not included unless
8 the matter has previously appeared on the calendar as a nonconsent
9 item, or has been removed from the consent calendar for separate
10 discussion and vote, or the item is one about which the member
11 has previously contacted the staff or a party.

12 (6) “*Immediate family member*” means the spouse or dependent
13 child.

14 (7) “*Personal staff member*” means an employee of the board
15 whose duties consist entirely of working for a particular board
16 member.

17 ~~(6)~~

18 (8) A *board* member knows or has reason to know about a
19 contribution if, after the adjudicatory proceeding first appears on
20 a meeting notice of the board, facts have been brought to the
21 member’s personal attention that he or she, *or his or her immediate*
22 *family member or a member of his or her personal staff*, has
23 received a contribution ~~which~~ *that* would require disqualification
24 under subdivision (c), or that the member received written notice
25 from the board staff, before commencement of the hearing and
26 before any subsequent decision on the matter, that a specific party,
27 close corporation, or majority shareholder, or agent thereof, or any
28 participant having a financial interest in the matter, or agent thereof,
29 in a specific, named adjudicatory proceeding before the board,
30 made a contribution or contributions within the preceding 12
31 months in an aggregate amount of two hundred fifty dollars (\$250)
32 or more. Each *board* member shall provide board staff with a copy
33 of each of his or her campaign statements at the time each of those
34 statements is filed.

35 The notice of contribution shall be on a form prescribed under
36 rules adopted by the board to provide for staff inquiry of each
37 party, participant, close corporation, and its majority shareholder,
38 and any agent thereof, to determine whether any contribution has
39 been made to a *board* member, *or his or her immediate family*
40 *member or a member of his or her personal staff*, and if so, in what

1 aggregate amount and on what date or dates within the 12 months
2 preceding an adjudicatory proceeding or decision.

3 In addition, the staff shall inquire and report on the record as
4 follows:

5 (A) Whether any party or participant is a close corporation, and
6 if so, the name of its majority shareholder.

7 (B) Whether any agent is an employee or member of any law,
8 accounting, consulting or other firm, or similar entity or
9 corporation, and if so, its name and address and whether a
10 contribution has been made by any such person, firm, corporation,
11 or entity.

12 (i) (1) Any person who knowingly or willfully violates any
13 provision of this section is guilty of a misdemeanor.

14 (2) No person convicted of a misdemeanor under this section
15 shall be a candidate for any elective office or act as a lobbyist for
16 a period for four years following the time for filing a notice of
17 appeal has expired, or all possibility of direct attack in the courts
18 of this state has been finally exhausted, unless the court at the time
19 of sentencing specifically determines that this provision shall not
20 be applicable. A plea of nolo contendere shall be deemed a
21 conviction for the purposes of this section.

22 (3) In addition to other penalties provided by law, a fine of up
23 to the greater of ten thousand dollars (\$10,000), or three times the
24 amount the person failed to disclose or report properly, may be
25 imposed upon conviction for each violation.

26 (4) Prosecution for violation of this section shall be commenced
27 within four years after the date on which the violation occurred.

28 (5) This section shall not prevent any member of the board from
29 making, or participating in making, a governmental decision to
30 the extent that the member's participation is legally required for
31 the action or decision to be made. However, the fact that a
32 member's vote is needed to break a tie does not make the member's
33 participation legally required.

34 *SEC. 2. No reimbursement is required by this act pursuant to*
35 *Section 6 of Article XIII B of the California Constitution because*
36 *the only costs that may be incurred by a local agency or school*
37 *district will be incurred because this act creates a new crime or*
38 *infraction, eliminates a crime or infraction, or changes the penalty*
39 *for a crime or infraction, within the meaning of Section 17556 of*
40 *the Government Code, or changes the definition of a crime within*

1 *the meaning of Section 6 of Article XIII B of the California*
2 *Constitution.*

3 ~~SECTION 1. Chapter 8 (commencing with Section 3880) is~~
4 ~~added to Division 3 of the Public Resources Code, to read:~~

5
6 ~~CHAPTER 8. GEOLOGIC CARBON SEQUESTRATION~~
7

8 ~~3880. The Legislature intends to do all of the following:~~

9 ~~(a) To ensure adequate health and safety requirements are met,~~
10 ~~and that the risk of unacceptable leakage from the injection and~~
11 ~~storage zone for carbon capture and geologic storage is minimized.~~

12 ~~(b) To ensure that best available practices and technologies are~~
13 ~~utilized.~~

14 ~~(c) To aid the state in meeting its greenhouse gas emissions~~
15 ~~reduction targets and addressing climate change.~~

16 ~~(d) To unify the regulatory elements along the carbon capture~~
17 ~~and geologic storage chain of operations, identify areas where~~
18 ~~existing regulations are sufficient, and clarify areas where existing~~
19 ~~regulations currently do not adequately address carbon capture~~
20 ~~and geologic storage.~~

21 ~~(e) To define the sequence of events and actions that need to~~
22 ~~take place in order to plan, construct, operate, and decommission~~
23 ~~a carbon capture and geologic storage facility.~~

24 ~~(f) To assure the public and all relevant stakeholders that carbon~~
25 ~~capture and geologic storage is performed under adequate~~
26 ~~regulatory oversight and provide all necessary information to that~~
27 ~~extent.~~

28 ~~3880.5. As used in this chapter~~
29 ~~, “division” means the Division of Oil, Gas, and Geothermal~~
30 ~~Resources in the Department of Conservation.~~

31 ~~3881. (a) (1) On or before January 1, 2011, the division, in~~
32 ~~close collaboration with the California Environmental Protection~~
33 ~~Agency, and in consultation with the California Geological Survey~~
34 ~~of the Department of Conservation, shall adopt, utilizing existing~~
35 ~~regulations where appropriate, standards and regulations for, but~~
36 ~~not limited to, all of the following:~~

37 ~~(A) Site characterization and approval.~~

38 ~~(B) Geomechanical, — geochemical, — and — hydrogeological~~
39 ~~simulation.~~

40 ~~(C) Risk assessment.~~

1 ~~(D) Mitigation and remediation protocols.~~

2 ~~(E) Issuance of permits for test, injection, and monitoring wells.~~

3 ~~(F) Specifications for the drilling, construction, and maintenance~~
4 ~~of wells.~~

5 ~~(G) Issues concerning ownership of subsurface rights and pore~~
6 ~~space.~~

7 ~~(H) The allowed composition of injected matter.~~

8 ~~(I) The testing, monitoring, measurement, and verification for~~
9 ~~the entirety of the carbon capture and geologic storage chain of~~
10 ~~operations, from the point of capture of the carbon dioxide to the~~
11 ~~storage site.~~

12 ~~(J) Closure and decommissioning procedures.~~

13 ~~(K) Short- and long-term liability and indemnification for~~
14 ~~storage sites.~~

15 ~~(2) The division shall make reasonable efforts to enter into a~~
16 ~~memorandum of understanding with the United States~~
17 ~~Environmental Protection Agency on the development of the~~
18 ~~standards and regulations pursuant to paragraph (1) to establish~~
19 ~~appropriate jurisdiction under the Underground Injection Control~~
20 ~~Program for regulating the injection of carbon dioxide and other~~
21 ~~allowable injectants in all allowable types of geological formation.~~

22 ~~(2) The California Environmental Protection Agency shall make~~
23 ~~reasonable efforts to enter into a memorandum of understanding~~
24 ~~with the United States Environmental Protection Agency on the~~
25 ~~development of the standards and regulations pursuant to paragraph~~
26 ~~(1).~~

27 ~~(b) The division, in collaboration with the California~~
28 ~~Environmental Protection Agency, shall do all of the following:~~

29 ~~(1) Take reasonable efforts to develop standards and regulations~~
30 ~~in accordance with the scientific, policy, legal, and other~~
31 ~~recommendations made by the State Energy Resources~~
32 ~~Conservation and Development Commission pursuant to Chapter~~
33 ~~471 of the Statutes of 2006, as these recommendation become~~
34 ~~available.~~

35 ~~(2) Provide a publicly available reasoned explanation for a~~
36 ~~deviation from the recommendations made by the State Energy~~
37 ~~Resources Conservation and Development Commission.~~

38 ~~(3) Develop regulations that provide for reporting and public~~
39 ~~disclosure of information and data to maximize transparency and~~
40 ~~accountability throughout the carbon capture and geologic storage~~

1 chain of operations while balancing concerns of commercial and
2 corporate sensitivity.

3 (4) ~~Ensure that the adoption of standards and regulations~~
4 ~~pursuant to paragraph (1) of subdivision (a) complies with the~~
5 ~~Administrative Procedure Act (Chapter 3.5 (commencing with~~
6 ~~Section 11340) of Part 1 of Division 3 of the Government Code).~~

7 (5) ~~Provide an opportunity for the State Energy Resources~~
8 ~~Conservation and Development Commission to comment on the~~
9 ~~proposed regulations.~~

10 (6) ~~Notwithstanding Section 7550.5 of the Government Code,~~
11 ~~on or before July 1, 2009, the division shall submit to the~~
12 ~~Legislature a progress report on the adoption of the standards and~~
13 ~~regulations required pursuant to paragraph (1) of subdivision (a).~~

14 3882. (a) ~~The standards and regulations adopted pursuant to~~
15 ~~Paragraph (1) of subdivision (a) of Section 3881 shall apply to the~~
16 ~~injection of carbon dioxide and other allowable injectants in~~
17 ~~allowable types of geological formation undertaken for the~~
18 ~~purposes of reducing greenhouse gas emissions to the atmosphere~~
19 ~~through long-term geological sequestration as required by law or~~
20 ~~undertaken voluntarily.~~

21 (b) ~~The standards and regulations developed pursuant to~~
22 ~~paragraph (1) of subdivision (a) of Section 3881 shall not apply~~
23 ~~to the injection of fluids through the use of Class II injection wells~~
24 ~~as defined in Section 144.69(b) of Title 40 of the Code of Federal~~
25 ~~Regulations for the purpose of enhanced hydrocarbon recovery.~~